

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH COX, JR.,

Plaintiff,

No. 06-CV-13407-DT

vs.

Hon. Gerald E. Rosen

ANDREW JACKSON, et al.,

Defendants.

OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION AND GRANTING DEFENDANT
PRAMSTALLER'S MOTION FOR SUMMARY JUDGMENT

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on September 4, 2009

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

This prisoner civil rights action is presently before the Court on the August 11, 2009 Report and Recommendation of United States Magistrate Judge Paul J. Komives recommending that the Court grant Defendant Pramstallar's motion for summary judgment on Plaintiff's single remaining claim of deliberate indifference to his medical needs in violation of the Eighth Amendment relating to his hernia.¹ Plaintiff has filed objections to the R&R. Having reviewed and considered the Magistrate Judge's Report

¹ The Court previously entered an Order dismissing all of Plaintiff's claims against all of the other 12 defendants who had been served with process in this matter. (Plaintiff's complaint originally listed 22 separate defendants. Nine of the individuals named as defendants have never been served.)

and Recommendation, Plaintiff's objections, Defendant's response thereto, and the Court's entire file of this matter, the Court agrees with the Magistrate Judge's recommendation that Plaintiff's Eighth Amendment claim relating to his hernia should be dismissed. Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's August 11, 2009 Report and Recommendation [**Dkt. # 82**] is adopted by the Court.

IT IS FURTHER ORDERED that Defendant Pramstallar's Motion for Summary Judgment [**Dkt. # 66**] is GRANTED. Accordingly,

IT IS FURTHER ORDERED that Plaintiff's Eighth Amendment claim against Defendant Pramstallar is DISMISSED, with prejudice.

IT IS FURTHER ORDERED that this case is remanded to the Magistrate Judge for further pretrial proceedings with respect to any remaining viable claims against the yet-to-be-served defendants, including resolution of any issues pertaining to service of process.

SO ORDERED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: September 4, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 4, 2009, by electronic and/or ordinary mail.

s/Ruth Brissaud
Case Manager